

TO: State Directors and Rural Development Managers
Rural Development

ATTENTION: Multi-Family Housing Directors and Coordinators

FROM: James C. Kearney (Signed by Cheryl L. Cook) for
Administrator
Rural Housing Service

SUBJECT: Clarification of Servicing Issues Within the
Housing Preservation Grant Program

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) is to provide clarification of servicing issues within the Housing Preservation Grant (HPG) program.

COMPARISON WITH PREVIOUS AN:

There is no previous AN on this subject.

IMPLEMENTATION RESPONSIBILITIES:

The following information is furnished to clarify servicing matters in operating the HPG program.

EXPIRATION DATE:
December 31, 2000

FILING INSTRUCTIONS:
Preceding RD Instruction 1944-N

Bringing the units up to applicable code:

The object of the HPG program is to bring the unit up applicable development standards as well as complete all items eligible for HPG assistance. The HPG assistance is to contribute to the long-term preservation of the unit.

In accordance with the RD Instruction 1944-N, Section 1944.652, housing preservation is repair and rehabilitation activity that contributes to the health, safety, and well being of the occupant, and contributes to the structural integrity or long-term preservation of the unit. As a result of this activity, the overall condition of the assisted structure must conform with applicable development standards for existing housing recognized by RHS in subpart A of Part 1924 or standards contained in any of the voluntary national model codes acceptable upon review by RHS.

Inspection of rehabilitation and repair work:

In accordance with RD Instruction 1944-N, Section 1944.665, all repair projects must be completed and inspected by a qualified disinterested third party prior to the close of the HPG agreement as provided by the date in the Grant Agreement, and prior to final payment to the contractor. In addition, repairs are to be completed as stated in the construction contract. Only work described in the repair list and contract should be provided, and ALL work to be completed should appear in both the description of repairs and the contract.

Civil Rights Compliance Reviews:

RD Instruction 1944-N, Section 1944.671 states that the policies contained in subpart E of part 1901 apply to grantees. As recipients of Federal financial assistance, HPG grant recipients are required to comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975, as well as all other applicable Federal, State, and local laws.

The 1901-E was last revised in 1978, which is prior to the inception of the HPG program, therefore the HPG program is not specifically cited in this regulation. The above laws and RD Instruction 1901-E, Section 1901.202 prohibit discrimination by **recipients** of Federal financial assistance. In order to comply, recipients are required to (1) sign an assurance agreement (Form RD 400-4), (2) disseminate information to the public, and (3) collect statistical data concerning race and national origin. In addition, these laws require Rural Development Agencies to ensure compliance. For this reason, pre-award and post award civil rights compliance reviews must be conducted.

Many of the requirements that HPG grant recipients must meet have been incorporated into RD Instruction 1944-N. For instance, 1944.671(b) require specific outreach activities by HPG grant recipients. Exhibit H of 1944-N requires grantees to process applications in a specific manner and to collect statistical data on race, ethnicity, and sex. Exhibits E-1 and E-2 require that race/national origin data be collected and reported.

As with other recipients, HPG grant recipients must post the USDA's "...and Justice for All" poster, as required by RD Instruction 1901-E, Section 1901.202(f) and the HUD fair housing poster, as required by RD Instruction 1091-E, Section 1901.203(c)(3)(iv). In areas where there is a significant non-English speaking population, the grantee must make information available in the non-English language.

RD Instruction 1901-E, Section 1901.203(c)(1) requires that HPG recipients who will provide housing assistance to five or more individuals within a 12-month period must also have an Affirmative Fair Housing Marketing Plan. The plan must be approved by the Agency and be posted (in a conspicuous location) for public inspection at the grantee's place of business. The marketing plan will be in effect until all grant funds have been utilized by the grantee.

The pre-award civil rights compliance review must be conducted before grant approval or before grant funds have been advanced. It is during this pre-award compliance review that the Agency is to discuss the civil rights compliance requirements with the grantee. Each item in the Assurance Agreement (Form RD 400-4) should be discussed with the grantee. The pre-award compliance review also provides the opportunity to discuss with the grantee their responsibility for collecting race/national origin data, outreach responsibilities, and their responsibility for making their program accessible to persons with disabilities. It also provides the opportunity to review the grantees' application process. During the pre-award compliance review the grantee should be given the posters that are required to be posted in the grantee's place of business.

In accordance with the above laws and RD Instruction 1901-E, Section 1901.204, a post award compliance review will be conducted after the program has been in full operation for 90 days. To the degree possible, it will be conducted in conjunction with a regularly scheduled supervision visit and must include an inspection of the grantee's facility and their records. Civil Rights compliance reviews of HPG recipients can be discontinued once all grant funds have been utilized. If additional grants are awarded to the same grantee in subsequent years, pre-award and post award civil rights compliance reviews must be conducted at the same intervals.

Debarment and Suspension:

It is required by the RD Instruction 1940-M that all RHS applicants for an HPG sign and submit with their preapplication, Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions," which states that the applicant has not been debarred or suspended from Government assistance. In addition, all grantees after receiving a HPG must obtain a signed certification (Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions") from all persons or entities that the grantee does business with (excluding homeowner recipients) as a result of the HPG. The grantee is responsible for maintaining Form AD-1048 in the grantee's files.

Waiting Lists:

The RD Instruction 1944-N, Exhibit C, requires that after the grantee goes through a detailed and documented screening process (recipient eligible or not eligible), the grantee must have a process for selecting recipients (e.g., who is first, second, etc., in line to receive assistance). This process should be reviewed by the Agency when visiting the grantee and reviewing the recipient files.

To assure people receive benefit for the program in a non-discriminatory way, a waiting list should be utilized and available to all recipients. The list will provide documentation of a fair process.

Recipient Files:

Reviewing recipient files is a major component of grant monitoring. RD is required to review at start-up; a few of the recipient files to make sure that all items are there. Reviews should be done several times throughout the term of the grant to effectively monitor grantees.

Environmental Review:

RD Instruction 1940-G must be followed to ensure compliance with Agency environmental regulations. RD Instruction 1944-N, 1944.672 provide additional information on how to review HPG projects under those requirements. The environmental review must be completed prior to grant approval or obligation of funds, whichever occurs first.

The RHS entered into a Programmatic Memorandum of Agreement with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation in order to implement the specific requirement regarding historic preservation contained in Section 533 of the Housing Act of 1949, 42 U.S.C. 1940(M) of the enabling legislation. This Programmatic Memorandum of Agreement can be found in RD Instruction 2000-FF, Exhibit A.

Flood Insurance Requirements:

Federal Emergency Management Agency (FEMA) Form 81-93 Standard Flood Hazard Determination must be completed by all HPG grantees for each recipient unit or building. For further guidance refer to RD Instruction 426.2, RD AN No. 3457, dated April 12, 1999.

Notification Regarding Lead Based Paint:

The EPA pamphlet entitled “Protect Your Family from Lead in Your Home” must be distributed by the grantee to all prospective HPG recipients.

Questions regarding this AN may be directed to the Multi-Family Housing Processing Division at (202) 720-1604.